



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,978	09/27/2003	Daniel H. Katsin	602.06	3513

7590

11/04/2005

Samuel S. Lee
DERGOSITS & NOAH LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO, CA 94111

EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
----------	--------------

1771

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,978

Applicant(s)

KATSIN, DANIEL H.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 8, 9 and 19-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7 and 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 5 – 7, and 10 – 18 in the reply filed on August 8, 2005 is acknowledged. The traversal is on the grounds that examining claims 1 – 24 would constitute a serious burden. This is not found persuasive because the separate species would be a burden to search because the species are considered to have different classification and would require searching for opposite inventions, i.e., composites which readily absorb liquid and composites which specifically prevent the passage of liquid. Since the applicant has not set forth that the different species would be obvious variants of each other, then the applicant has not provided sufficient evidence to state that the different groups are not patentably distinct.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

2. The drawings are objected to because the drawings do not meet the standards of formal drawings since the arrows and reference numbers do not have a consistent weight and number height. Also the numbers are hard to make out in some instances.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference characters not mentioned in the description: reference numbers 30 and 45.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed

Art Unit: 1771

from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 5 is objected to because of the following informalities: the claim is not a single complete sentence, there is a period at the end of the penultimate line in the claim, leaving the last part of the sentence as part of an incomplete second sentence.. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. The term "chamois microfiber" which is used to describe the first and second layer in claims 14 is indefinite. First it is unclear what the scope of the term is? Is the applicant just describing the microfibers in the layer, or is the layer a chamois configuration made from microfibers? Further, it is unclear what structural limitations the term "chamois" requires. Upon review of the disclosure,

Art Unit: 1771

“chamois” is described as a fabric having a smooth surface wherein microfibers stand perpendicular to the warp yarn and are extremely short (page 6). Further, the disclosure states that the fabric has no loops and the weave pattern is double knit. First, is the chamois fabric a woven or knit fabric? Second, does a napped or raised surface qualify as a “smooth” surface? A fabric with a surface formed short pile fibers, would not inherently be “smooth”. For purposes of examination, any knit or woven fabric with or without a short pile surface will read on the limitation.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 5 – 7 and 10 – 12 are rejected under 35 U.S.C. 102(e) as being anticipated by DeMott et al. (6,770,581).

Demott et al. discloses an absorbent knit fabric with a plush pile formed by raised or broken pile yarns (abstract). The fabric’s yarns are hydrophilic, absorbent, wicking, launderable, cleanable, durable, colorfast, printable, dimensionally stable, anti-pathogenic, and/or the like (abstract). The pile yarns are made from microdenier filaments not larger than 1.1 denier (column 4, lines 36 – 45). A composite absorbent structure is produced from knit fabric comprising two outer layers made with said absorbent knit fabric and a middle absorbent layer comprising an absorbent material such as cotton fabric, cotton blends, or the like (column 11, lines 10 – 18). As shown in Figure 6, the

Art Unit: 1771

center absorbent layer is not as wide as the outer layers and the outer layers are stitched together around the center layer. Thus, claims 5 – 7 and 10 – 12 are anticipated.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 13 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMott et al.

The features of DeMott et al. have been set forth above. DeMott et al. fails to disclose using microfilament yarns in the absorbent center layer. However, DeMott et al. discloses that the treated microfilament fibers used in the outer layers have superior characteristics to those of conventional cotton or cotton blends. Thus, it would have been obvious to one having ordinary skill in the art to use the treated polyester microfilaments disclosed by DeMott et al. in the absorbent center layer of the composite fabric since DeMott et al. teaches that the microdenier filaments have improved properties to cotton and cotton blend fabrics. Thus, claims 13 and 16 – 18 are rejected.

Further, it would have been obvious to one having ordinary skill in the art to choose a terry or double knit structure for the absorbent fabric, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. Thus, one of ordinary skill in the art would be motivated to choose a fabric for the absorbent center which is capable of absorbing and retaining liquid as well as pulling liquid away from the outer layers, via wicking properties, to prevent the surface of the cleaning cloth from becoming too wet or dirty during use. Further, it is noted that the knit fabric disclosed

Art Unit: 1771

by DeMott et al. reads on the chamois structure in claim 14 and the terry structure in claim 15.

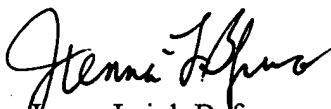
Thus, claims 14 and 15 are rejected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jenna-Leigh Befumo
October 31, 2005